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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

KAREN D. SMITH,

Plaintiff,

v.

Case No.: 2:19-cv-00538-JCC

THE BANK OF NEW YORK MELLON f/k/a
THE BANK OF NEW YORK, AS TRUSTEE
FOR THE BENEFIT OF THE
CERTIFICATEHOLDERS OF THE CWABS,
INC., ASSET-BACKED CERTIFICATES,
SERIES 2007-SD1, and NEWREZ LLC, f/k/a
NEW PENN FINANCIAL LLP, d/b/a
SHELLPOINT MORTGAGE SERVICING,
LLC, MTC FINANCIAL INC., d/b/a
TRUSTEE CORPS, and MALCOLM &
CISNEROS, A LAW CORPORATION,

Defendants.

DECLARATION OF CHRISTINA HENRY
IN SUPPORT OF PLAINTIFF'S RESPONSE
TO MOTION FOR SUMMARY JUDGMENT
OF MTC

NOTE ON MOTION CALENDAR:
APRIL 30, 2021

I, Christina L Henry, declare as follows:

1. I am the attorney for the Plaintiff Karen Smith ("Plaintiff") in this lawsuit. I have personal knowledge of the facts stated in this this declaration and am competent to testify to them.

2. Defendant Bank of New York Mellon ("BONY") retained an *in rem* interest in Smith's property after the discharge and commenced a series of five additional non-judicial foreclosure proceedings with notices of trustee's sales set at various times from 2009 through

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2016, although none of the sales occurred. *See* the five Notices of Trustee's Sales attached hereto as **Exhibit A**.

3. Upon judicial notice of documents filed by the defendant MTC, thereafter, Smith filed a complaint seeking damages and injunctive relief against MTC, Shellpoint, and BONY for filing a Notice of Trustee's Sale on a time-barred debt. *See* Dkt No. 100-2

4. Attached hereto are relevant excerpts of the Rule 30(b)(6) deponent for Defendant NewRez, LLC/Shellpoint. *See* **Exhibit B**.

5. Attached hereto is a true and correct copy of Ms. Smith's FFA mediation certification based on bad faith. *See* **Exhibit C**.

6. Attached hereto is the Judicial Foreclosure Complaint filed against Ms. Smith on April 11, 2018 in Washington State in King County Superior Court, *The Bank of New York Mellon v. Karen D. Smith*, Cause No. 18-2-09839-4 SEA. *See* **Exhibit D**.

7. Thereafter, on May 28, 2018, on behalf of Smith, I removed the Judicial Foreclosure Complaint to the United States District Court for the Western District of Washington, *The Bank of New York Mellon v. Karen D. Smith*, Cause No. 2:18-cv-00764-TSZ.

8. Attached hereto are documents received from MTC Financial in discovery regarding their check on PACER for Smith's prior bankruptcy filings, and letter evidencing a referral for foreclosure with the documents and checklist provided to Malcolm & Cisneros. *See* **Exhibit E**.

9. Attached hereto are an Email from Grant Courtney, an attorney for Defendants BONY and NewRez, LLC/Shellpoint during Smith's FFA foreclosure mediation re the investor's inability to grant a loan modification. *See* **Exhibit F**.

10. Attached hereto documents I obtained in discovery from Defendants BONY and NewRez, LLC/Shellpoint regarding solicitations to Ms. Smith for loan modifications. *See* **Exhibit G**.

11. Please take Judicial Notice of the Declaration of Olivia Miller in support of BONY and Shellpoint's Motion for summary judgment in state court re Ms. Smith's civil lawsuit based on time-barred debt. *See Exhibit H*, Dec. of Olivia Miller.

I DECLARE UNDER PENALTY OF PERJURY THAT THE ABOVE STATEMENT IS TRUE AND CORRECT.

Executed this 26th day of April, 2021 at Bothell, WA.

/s/ Christina L Henry
Christina L Henry, WSBA# 31273